



**UNITED STATES DEPARTMENT OF COMMERCE**

National Oceanic and Atmospheric Administration

**NATIONAL MARINE FISHERIES SERVICE**

Southeast Regional Office

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**NATIONAL MARINE FISHERIES SERVICE  
SOUTHEAST REGIONAL OFFICE, HABITAT CONSERVATION DIVISION  
ESSENTIAL FISH HABITAT GENERAL CONCURRENCE  
FOR CERTAIN LIVE ROCK AQUACULTURE ACTIVITIES  
IN WATERS OF THE EXCLUSIVE ECONOMIC ZONE OFF FLORIDA**

**PURPOSE:** To efficiently conduct essential fish habitat (EFH) consultations required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), with the National Marine Fisheries Service (NMFS), Southeast Regional Office, Constituency Services Branch, for certain live rock aquaculture activities occurring in federal waters of the exclusive economic zone (EEZ) off the State of Florida.

**BACKGROUND:** Live rock consists of certain living marine organisms or an assemblage of organisms attached to a hard substrate including dead coral or rock. Live rock was first marketed for public and private marine aquaria in the 1970s but the fishery expanded greatly in the 1980s and early 1990s. In meeting this increased demand for live rock, commercial harvesters adversely impacted areas of naturally occurring reefs and hardbottom areas. In 1989, the State of Florida prohibited the taking of live rock which, in turn, caused the harvesters to shift their efforts into the EEZ. To protect valuable fishery habitats, the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) amended their respective fishery management plans for coral and coral reef resources in 1995 phasing out harvest of wild live rock and established a program to authorize the harvest and possession of cultured live rock. The Constituency Services Branch is responsible for permitting the harvest and possession of cultured live rock in the NMFS Southeast Region.

Certain aspects of live rock aquaculture, specifically deposition of culture material in navigable waters, are also regulated by the U.S. Army Corps of Engineers (USACE) pursuant to Section 10 of the Rivers and Harbors Act of 1899. In 1995, the USACE Jacksonville District and the NMFS Southeast Regional Office entered into a coordination agreement which gave general authority to the NMFS Southeast Regional Office to administer USACE General Permit SAJ-71 for the deposition of materials for the purpose of live rock aquaculture in the EEZ off the State of Florida. General Permit SAJ-71 contains terms and special conditions which must be adhered to by individuals permitted by the NMFS to harvest and possess cultured live rock. General Permit SAJ-71 was first issued on February 6, 1995, and must be reauthorized every five years following a public review period. If the conditions of SAJ-71 cannot be met, an individual permit from the USACE is required. Live rock aquaculture activities requiring an individual permit from the USACE would require an EFH consultation by the USACE. It is anticipated these activities would generally comply with the terms and conditions of General Permit SAJ-71 with the exception of the individual and cumulative site size criteria.

The 1996 amendments to the Magnuson-Stevens Act require federal agencies involved in permitting (or licensing), funding, or undertaking actions which may adversely impact EFH to consult with the NMFS. The USACE consults with the NMFS Southeast Regional Office, Habitat Conservation Division (HCD) under the EFH provisions of the Magnuson-Stevens Act and other authorities (e.g., Fish and Wildlife Coordination Act) when evaluating individual permits and when considering

General Permit SAJ-71 for renewal. The Constituency Services Branch consults with HCD when evaluating permit applications to culture, harvest, and possess live rock.

For certain types of actions resulting in no more than minimal adverse effects to EFH individually and cumulatively, NMFS may issue a statement of General Concurrence in accordance with the requirements of 50 CFR 600.920(g).

**QUALIFYING CRITERIA:** In order for federal actions to qualify for a General Concurrence, NMFS must determine the following criteria of 50 CFR 600.920(g)(2) are met:

**The actions must be similar in nature and similar in their impact on EFH (50 CFR 600.920(g)(2)(i)(A)):** Live rock aquaculture generally consists of placing rock or other hard substrate on the seafloor. After a period of time, to allow natural colonization of living marine organisms, the rock is recovered and brought to shore. The terms and conditions of USACE General Permit SAJ-71 further define criteria for suitable site selection, individual and cumulative site size, allowable culture materials, and material deposition and recovery methods.

**The actions must not cause greater than minimal adverse effects on EFH when implemented individually (50 CFR 600.920(g)(2)(i)(B)):** The terms and conditions of General Permit SAJ-71 limit sites, individually and cumulatively, to no more than one acre and require sites to avoid naturally occurring hardbottom habitat and submerged aquatic vegetation.

**The actions must not cause greater than minimal cumulative adverse effects on EFH (50 CFR 600.920(g)(2)(i)(C)):** The terms and conditions of General Permit SAJ-71 limit sites, individually and cumulatively, to no more than one acre and require sites to avoid naturally occurring hardbottom habitat and submerged aquatic vegetation.

**Actions qualifying for a General Concurrence must be tracked to ensure their cumulative effects are no more than minimal (50 CFR 600.920(g)(2)(ii)):** See Notification procedure below. Additionally, the Constituency Services Branch maintains records and a database of live rock aquaculture permits.

**GENERAL CONCURRENCE:** Based on the above, the NMFS has determined the following activities are authorized for EFH General Concurrence:

1. Periodic renewals of NMFS issued permits for live rock aquaculture activities on previously approved sites authorized by USACE General Permit SAJ-71.
2. Periodic renewals of NMFS issued permits for live rock aquaculture activities on previously approved sites authorized by USACE individual permit where the EFH consultation resulted in no conservation recommendations or, if provided, the activity adheres to those recommendations.
3. NMFS issued permits for live rock aquaculture activities proposed in waters off Monroe County, Florida, in or near the Florida Keys National Marine Sanctuary (FKNMS), where

FKNMS staff have conducted a site inspection (or field review) and approve or otherwise deem a site suitable for live rock aquaculture.

**NOTIFICATION:** When applying this General Concurrence to a permit application, the Regional Aquaculture Coordinator and/or Constituency Services Branch shall send an e-mail notification to the Habitat Conservation Division at [nmfs.ser.efhgeneralconcurrence@noaa.gov](mailto:nmfs.ser.efhgeneralconcurrence@noaa.gov).

**EFFECTIVE DATES:** NMFS will periodically review its findings of General Concurrence and may revise or revoke a General Concurrence if new information indicates the covered actions are having more than minimal adverse effects on EFH. This General Concurrence becomes effective on the date signed below and shall remain valid until revoked by the Southeast Regional Office Habitat Conservation Division.

  
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Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

November 24, 2014

